S.B.Civil Revision Petition No.532/2006

Manohar Lal and others.
vs.
Jagdish.

Date : 4.4.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. RK Thanvi, for the petitioners.
Mr. HR Soni, for the respondent.

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Heard learned counsel for the parties.

The present revision petition is against the orders passed by two courts below on the respondent/ plaintiff's application for fixation of standard rent. The trial court enhanced the rent of the suit premises from Rs.80/- to Rs.3,000/- by the order dated 29.9.2006. The appeal was preferred by the petitioners/ tenants which was dismissed by the appellate court vide order dated 8.11.2006.

Brief facts of the case are that the plaintiff/ respondent filed a suit with the allegation that the suit property was let out to the tenant in the year 1974 for a rent of Rs.80/-. The suit property is

situated on Railway Station road and is only about 300 meters away from the railway station. It is also near the bus stand which is about 350-400 meters away from the shop in dispute. The plaintiff pleaded that at present, the market where the shop in dispute is situated is the most busy market and it is now a modern market. It has all the facilities of market like hotels, bank, dharamshala, etc. where the businessmen can come and stay. Near the shop in dispute just after 10-12 shops, the Municipal Board, Barmer also constructed the market known as Mahaveer Market wherein the rent of the premises is more than Rs.5,000/-.

The defendants filed written statement and submitted that the suit premises was taken on rent of Rs.55/- in the year 1974 which was increased to Rs.80/-. The defendants admitted that the shop is situated on station road where hundreds of shops are there. The defendants further submitted that for cloth business, the main market is in Laxmi Bazar and Sadar Bazar and not on station road. He also stated that the station road is 55 feet wide and not 80 feet.

Both the parties gave their statement and produced the witnesses.

Two courts below held that the reasonable rent of the suit premises can be Rs.3,000/- per month.

Hence, this revision petition.

Learned counsel for the petitioners vehemently submitted that the plaintiff himself in his statement admitted that rent of some of the shops is not in the knowledge of the plaintiff. Learned counsel for the petitioners also tried to draw attention of this Court to the evidence of the plaintiff and also to the witnesses and submitted that the finding of the courts below is vitiated by reason of misconstruing as well as misreading of evidence.

Learned counsel for the petitioners also submitted that this Court in the judgment delivered in the case of Brij Mohan & Anr. vs. Bhanwari Devi & Ors. reported in 2006(2) RLW 1541 held that while fixing the provisional rent, the Court has to hold summary enquiry guided by some legal principles as delineated in Sections 6(3) and 7. The price index is a commonly used factory and it normally goes double in every eight years, therefore the Court may calculate the rent on the basis of price index also.

Learned counsel for the petitioners also relied on the judgment of this Court delivered in the case of Brahma Nand vs. Durga Prashad & Ors. reported in 2004 (1) DNJ (Raj.) 405 in which this Court held that in view of Section 6(2) of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950 having been struck down, now the standard rent cannot be determined at an amount 2½ times the basic rent as prevalent on 1.1.1962,

rather it has to be determined as per Section 6(3), therefore, the standard rent is to be determined having due regard to the prevailing rent or standard rent for similar premises in the same locality the various amenities attached to the premises, cost of construction, maintenance and repairs etc.

According to learned counsel for the petitioners, since it is difficult to find out the exactly similarly premises, therefore, the rent cannot be determined as the rent of similar premises. It is also submitted that the rent increased is too much.

Learned counsel for the respondent relied on the statement of the petitioners wherein the petitioners admitted that the rent for the nearby shops is Rs.5,500/- to Rs.6,000/-.

I considered the submissions of learned counsel for the parties.

Both the courts below considered the evidence and after going through the statement of the defendant/ petitioner alone, this Court is of the view that the defendant himself admitted the fact that the shop is situated on prime location of Barmer and in the nearby area, the rent of shops is Rs.5,500/- and Rs.6,000/-. Since those shops were newly constructed, therefore, it

appears that two courts below were of the view that the reasonable rent of the suit premises is Rs.3,000/-. Both the courts below has decided question of fact on the basis of evidence and reached to a reasonable just conclusion, therefore, I do not find any reason to interfere in the impugned orders passed by the courts below.

In view of the above, this revision petition, having no merit, is hereby dismissed.

The interim order passed by this Court dated 13.12.2006 is vacated and the stay petition is dismissed. Now the petitioners may deposit the entire arrears of difference of amount within a period of two months from today.

(PRAKASH TATIA), J.

S.Phophaliya